



**STATE OF NEW JERSEY**

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

In the Matter of Rosalyn Williams,  
Correctional Police Officer Recruit  
(S9999U), Department of Corrections

CSC Docket No. 2019-1714

List Removal Appeal

**ISSUED: August 15, 2019**

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Rosalyn Williams appeals the appointing authority’s request to remove her name from the eligible list for Correctional Police Officer Recruit (S9999U), Department of Corrections, on the basis of an unsatisfactory employment record.

In disposing of the M18UL9(G)01 certification, the appointing authority requested the removal of the appellant’s name, contending that she had an unsatisfactory employment record. In support of its request, the appointing authority indicated that the appellant had been terminated by the New York City Department of Corrections (NYCDOC) for disciplinary reasons in December 2005.

On appeal, the appellant states that she was invited to the Department of Corrections’ training academy in November 2010, started the academy in January 2011, but due to an injury, was granted a” recycle” status.<sup>1</sup> Subsequently, she became employed by Essex County as a County Correction Officer but was “non-academy trained” and she indicates that she “did not participate in future academy classes(es).”<sup>2</sup> The appellant highlights that the 2005 termination of her probationary position with the NYCDOC did not preclude her from starting the New Jersey Department of Corrections academy in 2011. With respect to her service with New York City, the appellant states that she was not afforded an

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<sup>1</sup> The appellant did not list on her application that she was employed with the appointing authority as a Correction Officer Apprentice from January 2011 until February 2011 or that she resigned from this appointment and was offered the opportunity to have her training recycled.

<sup>2</sup> The appellant indicated on her application that she resigned from her position as a County Correction Officer with Essex County in March 2012 because she did not pass the physical training requirement.

opportunity for a hearing when she was terminated on December 10, 2005 because she was an “at will” employee. She explains that there were mitigating factors that impeded her timely attendance at work that resulted in her termination for lateness. In this regard, the appellant states that at the time, she was the sole caregiver for her grandmother who was diagnosed with a serious medical condition and due to her son’s school schedule. Nevertheless, the appellant states in her appeal:

With regard to the lateness and termination concerning my employment with NYC DOC, I take full responsibility; and do not negate the severity. Expressly, I highly regarded and valued my career. Despite, NYCDOC *rightfully maintained and enforced a strict policy that I did not fulfill at that time.* (emphases added).

The appellant also states that as an “at-will” employee with the NYCDOC, a hearing prior to termination would not be applicable. Rather, she states that such a hearing would only take place subsequent to an individual’s termination and the filing of a grievance.

In response, the appointing authority states that there is nothing in the appellant’s appeal that refutes the fact that she was terminated by the NYCDOC for lateness or that her removal from the subject list is in error. Additionally, the appointing authority presents that it has recently revised its criteria and now a potential candidate can be removed from processing if the applicant had employment terminated by a federal, state county, or municipal law enforcement agency for disciplinary reasons, or who has resigned in good standing on the condition that he/she would not reapply for a position in law enforcement.

## CONCLUSION

*N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)7, allows the removal an eligible’s name from an eligible list who has a prior employment history which relates adversely to the position sought. Additionally, *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority’s decision to remove his or her name from an eligible list was in error.

In the matter at hand, the appointing authority removed the appellant’s name from the subject eligible list based on an unsatisfactory employment history with the NYCDOC. The record indicates that the appellant was employed by the NYCDOC as a Corrections Officer from February 2004 and was terminated due to lateness in December 2005. Essentially, the appellant argues that since she did not have an opportunity for a hearing prior to her termination as a probationary Corrections Officer with NYCDOC, her name cannot be removed from the subject

list on the basis of an adverse employment history. The Civil Service Commission (Commission) disagrees.

Generally, for a provisional employee in a title governed under the New Jersey Classification Plan, when his or her provisional employment record is in dispute, it *may* be necessary to grant a hearing regarding the removal of his or her name from the eligible list. *See Matter of Wiggins*, 242 N.J. Super. 342 (App. Div. 1990) (The court found that it was improper to remove a person from an eligible list because of a prior employment history which related adversely to the position based solely on charges that were the subject of a good faith factual dispute without the opportunity for a hearing on his termination from the position which was the basis for removal). Under such circumstances, a hearing was at the Office of Administrative Law to determine the propriety of the removal of an appellant's name from an eligible list.

Under the facts of the instant appeal, the appellant's probational employment and termination as a probationary Corrections Officer with NYCDOC is not in dispute. In this regard, the appellant concedes in her appeal submission that the NYCDOC "rightfully maintained and enforced a strict policy that I did not fulfill at that time." Further, although indicated in her appeal submission, it cannot be ignored that the appellant did not indicate on her application that she was a Correction Officer Apprentice from January 2011 to February 2011 or that she was offered the opportunity to be "recycled" after not completing the training academy. As such, it is irrelevant that the appointing authority may have previously offered her the opportunity for appointment as the totality of the appellant's employment record is not conducive to the performance of duties of a Correctional Police Officer Recruit. In this regard, it is recognized that a Correctional Police Officer Recruit is a law enforcement employee who must help keep order in the prisons and promote adherence to the law. Correctional Police Officers, like municipal Police Officers, hold highly visible and sensitive positions within the community and the standard for an applicant includes good character and an image of utmost confidence and trust. *See Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), *cert. denied*, 47 N.J. 80 (1966). *See also In re Phillips*, 117 N.J. 567 (1990).

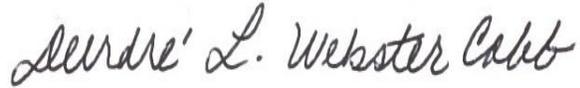
Accordingly, the totality of the appellant's prior employment history adversely relates to the position sought and is sufficient cause to remove her name from the eligible list. The appellant has not met her burden of proof in this matter and the appointing authority has shown sufficient justification for removing her name from the subject eligible list.

### **ORDER**

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 14<sup>th</sup> DAY OF AUGUST, 2019



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